

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

KAREN TAYLOR, individually and on
behalf of all others similarly situated, and
PAULISA FIELDS,

No. C 13-04916 WHA

Plaintiffs,

v.

WEST MARINE PRODUCTS INC.,

**ORDER DENYING
MOTION TO DISMISS AND TO
STRIKE CLASS ALLEGATIONS
AS MOOT**


Defendant.

On November 21, defendant submitted a motion to dismiss plaintiffs' class action complaint and to strike class allegations, pursuant to Federal Rules of Civil Procedure 12(b)(6) and 12(f), and 23(d). Under Civil Local Rule 7-3, plaintiffs' opposition to that motion was due on December 5. To date, no such opposition has been filed.

Nonetheless, plaintiffs submitted an amended complaint yesterday, pursuant to Federal Rule of Civil Procedure 15(a)(1)(B). Because this amended complaint was filed within 21 days after service of defendant's motion, plaintiffs have complied with the requirements of Rule 15(a)(1)(B). Accordingly, defendant's motion is **DENIED AS MOOT**, without prejudice to defendant bringing a fresh motion to dismiss the amended complaint and to strike class allegations. No further amendments may be made to the amended complaint without seeking in advance leave of the Court to do so.

IT IS SO ORDERED.

Dated: December 13, 2013.


WILLIAM ALSUP
UNITED STATES DISTRICT JUDGE